

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LENA D. MORRIS,
Plaintiff,

v.

TEXAS HEALTH AND HUMAN
SERVICES COMMISSION,
Defendant.

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Civil Action No. 4:16-cv-3116

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Defendant Texas Health and Human Services Commission ("Defendant" or "HHSC"), and files this *Notice of Removal*, and respectfully shows this Court the following:

1. This removal is pursuant to 28 U.S.C. 1441(a). This action was originally filed in the 270th Judicial District Court of Harris County, Texas, as Cause No. 2016-55050. Plaintiff is Lena D. Morris ("Plaintiff"); the sole defendant is HHSC. Venue is proper in the United States District Court for the Southern District of Texas, Houston Division under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in this district and division.

2. Federal district courts have original jurisdiction of all civil actions arising under the laws of the United States. 28 U.S.C. § 1331. In her live-pleading, Plaintiff brings prescriptive and proscriptive claims under the Family Medical Leave Act

(“FMLA”), codified as 29 U.S.C. § 2601, *et. seq.* Pl.’s Original Pet., 4 (“First Cause of Action”). Plaintiff brings gender discrimination claims under Title VII of the Civil Rights Act of 1964 (“Title VII”), codified as 28 U.S.C. § 2000, *et. seq.* Pl.’s Original Pet., 4–5 (“Second Cause of Action”). Plaintiff brings race discrimination claims under Title VII. Pl.’s Original Pet., 5 (“Third Cause of Action”). Plaintiff brings age discrimination claims under Title VII.¹ Pl.’s Original Pet., 5–6 (“Fourth Cause of Action”). Finally, Plaintiff brings retaliation claims under Title VII. Pl.’s Original Pet., 6 (“Fifth Cause of Action”).

3. For all these claims, Plaintiff seeks damages for back pay, front pay, compensatory damages, sanctions and penalties, attorney’s fees, pre-judgment interest, post-judgment interest, liquidated damages, and equitable relief. Pl.’s Original Pet., 6–7 (“Prayer”).

4. Plaintiff made a demand for a trial by jury within her Original Petition. Pl.’s Original Pet., 6 (“Jury Demand”).

5. Plaintiff filed her state court action on August 18, 2016. *See* Pl.’s Original Pet., 1 (file-stamp). Plaintiff’s civil process request form was filed on September 22, 2016. Plaintiff’s Original Petition and citation for personal service were first served on Defendant on September 28, 2016.

6. Defendant had thirty (30) days from September 28, 2016 in which to remove. *See* 28 U.S.C. § 1446(b). Therefore, this removal is timely.

¹ Age is not a protected category under Title VII. *See* 42 U.S.C. § 2000e-2; *Williams v. General Motors Corp.*, 656 F.2d 120, 127 (5th Cir. 1981).

7. Defendant filed its Original Answer and Defenses in the state district court on October 18, 2016.

8. A copy of all process, pleadings, and orders served upon, or by, Defendant in the state court suit are being filed with this notice as required by 28 U.S.C. § 1446(a).

9. Defendant will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

PRAYER

ACCORDINGLY, Defendant prays that this cause be removed to the United States District Court for the Southern District of Texas, Houston Division, pursuant to Section 1441 of Title 28 of the United States Code.

DATE: October 21, 2016

Respectfully submitted,

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Attorney General of Texas

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First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

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/s/ Benjamin L. Dower
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CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2016, a true and correct copy of the foregoing document has been served on the parties and/or attorneys of record through certified mail, return receipt requested:

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